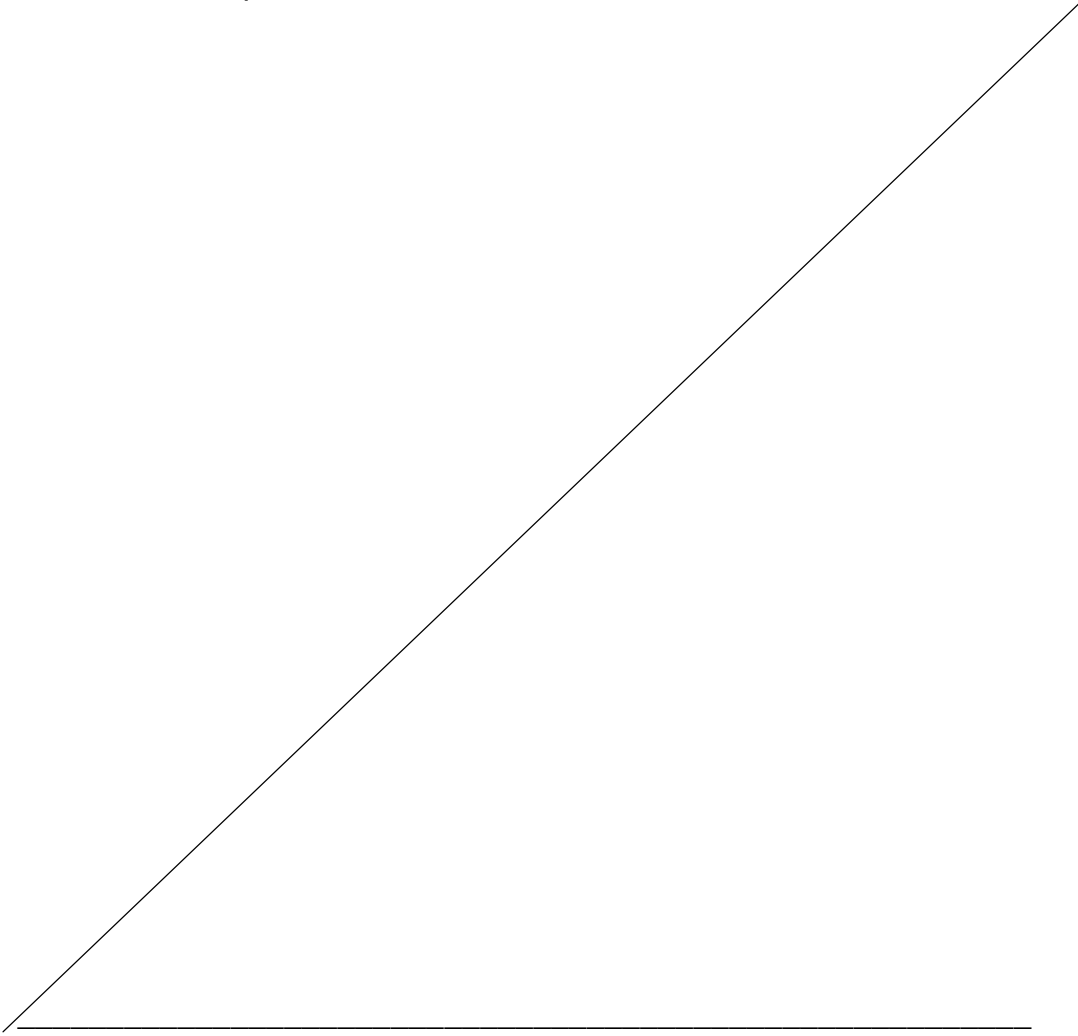


DEPARTMENT OF HEALTH

Adoption of Chapter 11-172
Hawaii Administrative Rules

1. Chapter 172 of Title 11, Hawaii Administrative Rules, entitled
“Certification and Reimbursement of Mental Health Rehabilitation Services
Providers” is adopted to read as follows:_____



“HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 172

CERTIFICATION AND REIMBURSEMENT OF MENTAL HEALTH
REHABILITATION SERVICES PROVIDERS

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Historical note: These rules are promulgated pursuant to the memorandum of agreement, dated November 29, 2002, between the Department of Human Services and the Department of Health, whereby the Department of Health agrees to “Develop and promulgate Hawaii Administrative Rules regarding the Adult Mental Health Division (AMHD) process for determining Provider Agencies’ participation in the Community Mental Health Program.”

SUBCHAPTER 1

GENERAL PROVISIONS

§11-172-01 Scope. The rules in this chapter govern procedures before the department of health for the certification and reimbursement of mental health rehabilitation services providers. [Eff _____]
(Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-02 Definitions. As used in this chapter:

“Agency” means a for profit or not-for-profit organization that provides mental health rehabilitation services as defined herein.

“Applicant” means an agency that is applying for initial certification or re-certification under this chapter.

“Assertive community treatment services” means assertive community treatment service as defined in section 17-1737-44.1.

“Biopsychosocial rehabilitation services” means biopsychosocial rehabilitative programs as defined in section 17-1737-44.1.

“Certificate” means a document issued by the department attesting that a mental health rehabilitation services provider is in compliance with Hawaii state laws and this chapter.

“Community Mental health rehabilitation services” or “CMHRS” means services that are intended for the maximum reduction of mental disability and restoration of an individual to his or her best possible functional level. The services shall be:

- (1) Recommended by a psychiatrist ,psychologist, advance practice registered nurse (APRN) in behavioral health, or licensed clinical social worker in behavioral health;
- (2) Rendered by licensed practitioners and qualified mental health professionals, or agency staff, under the supervision of a qualified mental health professional; and
- (3) Rendered by mental health rehabilitation services agencies certified under this chapter.

“Crisis management services” means crisis management service as defined in section 17-1737-44.1.

“Crisis residential services” means crisis residential service as defined in section 17-1737-44.1.

“Department” means the department of health, State of Hawaii.

“Director” means the director of health.

“Individual” means a person who receives any of the services defined in this chapter.

“Intensive outpatient hospital services” means intensive outpatient hospital services as defined in section 17-1737-44.1.

“License” means a license issued by the State certifying the compliance with all existing state laws and rules relative to the operation of a facility or service.

“Licensed clinical social worker” means a person who is a licensed clinical social worker pursuant to chapter 467E, HRS.

“Provider” means an agency certified under this chapter to provide mental health rehabilitation services.

“Qualified mental health professional” or “QMHP” means:

- (1) A psychiatrist licensed to practice medicine in the State of Hawaii in accordance with chapter 453, HRS, and who is certified or is eligible to be certified in psychiatry by the American Board of Psychiatry or Neurology;
- (2) A psychologist licensed in accordance with chapter 465, HRS;
- (3) A licensed clinical social worker in behavioral health or licensed in accordance with chapter 467E, HRS;
- (4) An advanced practice registered nurse (APRN) in behavioral health licensed in accordance with chapter 457, HRS and qualified as provided under section 17-1737-12(3);
- (5) Any other person as determined by the department of human services.

“State” means the State of Hawaii.

“Therapeutic living supports services” means therapeutic living supports services as defined in section 17-1737-44.1. [Eff
] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10)
(Imp: HRS §§ 321-1, 334-9)

SUBCHAPTER 2

PROVIDER CERTIFICATION PROCESS

§11-172-03 Certification required. Each applicant who seeks to provide one or more of the following services: assertive community treatment services; biopsychosocial rehabilitation services; crisis management services; crisis residential services; intensive outpatient hospital services; or therapeutic living support services (hereinafter community mental health rehabilitation services or “CMHRS”) shall obtain certification pursuant to this chapter. [Eff
] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-04 Filing of a provider application. Each applicant seeking initial certification or provider seeking re-certification under this chapter shall file an application with the department. The application shall

be filed on the form prescribed and furnished by the department. The department shall not accept for filing any application that is not submitted on the correct form. [Eff] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-05 Application forms. The application form prescribed by the department may vary according to the type of service being proposed in the application. The department may revise or amend the application forms from time to time. An application form may require the applicant to provide any information that is reasonably necessary for an informed review of the application, and the applicant shall provide the information in the form and manner that the department may prescribe. The department may require the applicant to provide supporting documentation for information submitted in the application. [Eff] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-06 Number of copies filed. Unless the department directs otherwise, the applicant shall file with the department the original and one copy of the application and supporting documentation. [Eff] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-07 When to file an application: new provider. An applicant who is not yet certified by the department may file an application at any time, or as directed by the department. [Eff] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-08 When to file an application: existing provider. A provider who is already certified by the department, and who is seeking renewal of a certificate, shall file an application at least ninety days prior to the expiration of its existing certificate. [Eff] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-09 Complete application required. The department requires a complete application for review. The filing of an application with

the department does not by itself mean that the application is complete.
[Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-10 Determination of completeness. (a) An application is complete when the department determines that the application is properly filled out and includes all necessary information.

(b) The department shall determine if the application is complete within ten business days after the application is filed. If the application is incomplete, the department shall notify the applicant of the actions or additional information required to complete the application. The applicant shall have thirty calendar days in which to complete the application. The thirty days shall be computed from the date when the department provides notification to the applicant.

(c) If the applicant fails to complete the application within the thirty days, the department shall dismiss the application without prejudice.
[Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-11 Notification of completeness. When the department determines that the application is complete, it shall provide written notification to the applicant of the beginning of the review period.
[Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-12 Review period. To the extent practicable, the period for department review of the application shall not exceed ninety calendar days from the date of notification of completeness to the date when the department issues its decision on the application. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-13 Service standards. The applicant shall submit documentation demonstrating that it complies with the department service standards established in the application form. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-14 On-site survey. The department may conduct an on-site survey of an applicant for initial certification or renewal of certification. The applicant shall provide access to all records necessary to verify compliance with certification standards, and the department may conduct interviews with staff and any other individual with the applicant's permission. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-15. Decision on a certificate application. (a) Unless the application for a certificate has been withdrawn or dismissed, the department shall make its decision on the application within the required time. The decision may be:

- (1) An approval;
- (2) A disapproval; or
- (3) A determination of noncompliance pursuant to section 11-172-16.

(b) On the date that the department makes its decision, it shall send the decision to the applicant by certified mail, return receipt requested, and delivered to addressee only.

(c) If the department approves the certificate application, the form of the certificate may be in the form of a letter of approval, and shall include the effective dates of the certificate. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-16 Failure to act within the required time. A certificate shall not be issued or denied solely because the department failed to issue a decision within the required time. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-17 Determination of noncompliance. If the department determines that an existing provider applying for re-certification fails to comply with the certification requirements, it may, within thirty days after the conclusion of the on-site survey, provide a written statement of non-compliance. The statement of non-compliance shall describe the areas of non-compliance, suggest action needed to bring the applicant's operation

into compliance with the requirements of this chapter, and set forth a timetable for the applicant to submit a written plan of correction. [Eff] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-18 Plan of correction. The applicant shall submit a written plan of correction which shall describe the actions to be taken and specify a timetable for correcting the areas of non-compliance with the certification requirements. The applicant shall submit the written plan to the department within thirty days after receipt of the written statement of non-compliance from the department. [Eff] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-19 Acceptance of plan of correction. The department shall notify the applicant or provider if the plan of correction is acceptable within thirty days after receipt of the plan of correction. [Eff] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-20 Granting or continuation of certificate following implementation of plan of correction. The department may grant or continue a certificate after it verifies that the applicant has complied with its written plan of correction and meets all the certification requirements. [Eff] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-21 Denial of certificate. The department may deny any application for initial certification or re-certification for any of the following reasons:

- (1) The applicant or provider is not licensed to do business in the State of Hawaii;
- (2) The applicant or provider does not meet the service-specific standards detailed in the application form and instructions;
- (3) Previous felonies committed by any of the applicant's or provider's management personnel;

- (4) Previous revocation of medicaid or medicare certification or professional license of the applicant, provider, or their respective staff;
- (5) The applicant or provider lacks sufficient organizational and fiscal infrastructure;
- (6) The applicant or provider has received a written statement of non-compliance pursuant to section 11-172-16 and has failed to submit a written plan of correction within the time specified in section 11-172-17;
- (7) The provider is in violation of the terms of the AMHD contract and has not corrected the violation within the time specified by AMHD; or
- (8) The applicant or provider has been terminated as an AMHD provider. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-22 Appeal of denial. Any applicant or provider denied certification under this chapter may appeal to the Adult Mental Health Division in accordance its policies and procedures. If not satisfied with the final Adult Mental Health Division decision, the applicant or provider may appeal in writing to the director pursuant to the department's rules of practice and procedure. If no request for an appeal is received by the director within forty-five days of the mailing of the written decision to the respondent the decision shall become final. [Eff _____] (Auth: HRS §§ 321-196), (Imp: HRS §§ 321-193)

§11-172-23 Term of certification. Certification shall be granted for a period of time to be determined by the department, but not to exceed three years from the date of the department's decision under section 11-172-14, subject to the applicant or provider's continuous compliance with certification requirements. Certification shall remain in effect unless it expires, or is renewed or revoked. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-24 Unannounced on-site surveys. The department may conduct on-site surveys of an applicant or provider at any time without prior notice. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-25 Certificate not transferable. A certificate shall be issued only to the applicant named in the application. The certificate may not be sold, assigned, leased, donated, or otherwise transferred to any other applicant or provider. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-26 Notification of changes by provider. The provider shall notify the department immediately of any changes in its operation that affect the provider's continued compliance with these requirements, including changes in ownership, control, service, affiliation, or referral arrangements. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-27 Revocation of certificate. The department may revoke a certificate at any time if it determines that the provider has failed to comply with any certification requirement. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-28 Appeal of revocation. Any provider whose certificate is revoked under this chapter may appeal in accordance with Adult Mental Health Division policies and procedures. If the provider is not satisfied with the final decision of the Adult Mental Health Division, the provider may appeal the decision in writing to the director pursuant to the department of health's rules of practice and procedure. If no request for an appeal is received by the director within forty-five days of the mailing of the written decision to the respondent the decision shall become final. [Eff _____] (Auth: HRS §§ 321-196) (Imp: HRS §§ 321-193)

§11-172-29 Termination of certification. Certification shall be considered terminated and invalid after its expiration date if the provider fails to apply for renewal of certification prior to the expiration date of the certificate, voluntarily relinquishes certification, or goes out of business. [Eff _____] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

SUBCHAPTER 3

REIMBURSEMENT OF PROVIDERS

§11-172-30 Contract for services. The department may enter into contracts with providers certified under this chapter. [Eff
] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10)
(Imp: HRS §§ 321-1, 334-9)

§11-172-31 Reimbursement for providers. Providers submitting claims for medical assistance reimbursement shall be reimbursed for services as provided in section 17-1737-44.1(f). Providers shall submit their claims to the department. [Eff
] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-24 Medical Assistance Reimbursement. Medical assistance reimbursement to providers shall only be made for individuals eligible for medical assistance and who are medically determined to need community mental health rehabilitation services. These services must be recommended by a physician or other licensed practitioner to promote the maximum reduction or restoration, or both, of an individual to the individual's best possible functional level relevant to the individual's diagnosis of mental illness, or mental illness and abuse of drugs or alcohol. [Eff
] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-25 Utilization management information and data. Providers shall submit information and data regarding appropriateness of CMHRS provided, lengths of stay, and quality of CMHRS provided to the department. Upon request, the applicant or provider shall deliver to the department the requested information. The department shall develop and give to the applicant or provider forms for providing this information, and shall review the information to determine compliance with department policies and requirements. The department may establish policies and procedures for conducting reviews under this section. [Eff

] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10)
(Imp: HRS §§ 321-1, 334-9)

SUBCHAPTER 4

MISCELLANEOUS PROVISIONS

§11-172-34 Free choice of provider. All individuals receiving mental health rehabilitation services under this chapter shall be entitled to choose their providers, subject to availability, from among those certified under this chapter. [Eff] (Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

§11-172-35 Severability. If any provision of this chapter or application thereof to any agency or circumstance is held invalid, the application of the remainder of the chapter to other agencies or circumstances shall not be affected.” [Eff]
(Auth: HRS §§ 321-1, 334-9; 42 C.F.R. § 431.10) (Imp: HRS §§ 321-1, 334-9)

2. The adoption of chapter 11-172, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.